

§ 90.3

from which the articles are made, appearance, quality, texture, etc.); and *directly competitive* articles are those which, although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes (i.e., adapted to the same uses and essentially interchangeable therefor).

An imported article is *directly competitive with* a domestic article at an earlier or later stage of processing, and a domestic article is *directly competitive with* an imported article at an earlier or later stage of processing, if the importation of the article has an economic effect on producers of the domestic article comparable to the effect of importation of articles in the same stage of processing as the domestic article.

Partial separation means, with respect to an individual who has not been totally separated, that:

(a) The worker's hours of work have been reduced to 80 percent or less of the worker's average weekly hours at the firm or appropriate subdivision thereof, and

(b) The worker's wages have been reduced to 80 percent or less of the worker's average weekly wage at the firm or appropriate subdivision thereof.

Secretary means the Secretary of Labor, U.S. Department of Labor.

Significant number or proportion of the workers means that:

(a) In most cases the total or partial separations, or both, in a firm or appropriate subdivision thereof, are the equivalent to a total unemployment of five percent (5 percent) of the workers or 50 workers, whichever is less; or

(b) At least three workers in a firm (or appropriate subdivision thereof) with a work force of fewer than 50 workers would ordinarily have to be affected.

Threatened to begin means, in the context of impending total or partial separations, the date on which it could reasonably be predicted that separations were imminent.

Total separation means the layoff or severance of an individual from a firm or an appropriate subdivision thereof.

[42 FR 32772, June 28, 1977, as amended at 52 FR 23401, June 19, 1987; 72 FR 37103, 37104 July 9, 2007]

29 CFR Subtitle A (7-1-12 Edition)

§ 90.3 Applicability of part.

This part 90 generally relates to certifications of eligibility made under the Act. Subpart B specifically applies to the initiation and conduct of worker investigations and the issuance of determinations and certifications of eligibility to apply for adjustment assistance. Subpart C applies to studies of workers in industries which are the subject of investigations for industry import relief. Subpart D contains general provisions with respect to filing of documents and public availability of documents.

Subpart B—Petitions and Determinations of Eligibility To Apply for Adjustment Assistance

§ 90.11 Petitions.

(a) *Who may file petitions.* A petition under section 221(a) of the Act and this subpart B shall be filed by a group of workers for a certification of eligibility to apply for adjustment assistance or by their certified or recognized union or other duly authorized representative.

(b) *Identification of petitioners.* Every petition filed with the Department shall clearly state the group of workers on whose behalf the petition is filed and the name(s) and address(es) of the person(s) by whom the petition is filed. Every petition shall be signed by at least three individuals of the petitioning group or by an official of a certified or recognized union or other duly authorized representative. Signing of a petition shall constitute acknowledgment that each signer has read the entire petition, that to the best of the signer's knowledge and belief the statements therein are true, and that each signer is duly authorized to sign such a petition.

(c) *Contents.* Petitions may be filed on a U.S. Department of Labor form. Copies of the form may be obtained at a local office of a State workforce agency or by writing to the Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210. Every petition shall include:

(1) The name(s), address(es), and telephone number(s) of the petitioner(s);

(2) The name or a description of the group of workers on whose behalf the petition is filed (e.g., all hourly and salaried employees of the XYZ plant of ABC corporation);

(3) The name and address of the workers' firm or appropriate subdivision thereof;

(4) The name, address, telephone number, and title of an official of the firm;

(5) The approximate date(s) on which the total or partial separation of a significant number or proportion of the workers in the workers' firm or subdivision began and continued, or threatened to begin, and the approximate number of workers affected by such actual or threatened total or partial separations;

(6) A statement of reasons for believing that increases of like or directly competitive imports contributed importantly to total or partial separations and to the decline in the sales or production (or both) of the firm or subdivision (e.g., company statements, articles in trade association publications, etc.); and

(7) A description of the articles produced by the workers' firm or appropriate subdivision, the production or sales of which are adversely affected by increased imports, and a description of the imported articles concerned.

If available, the petition also should include information concerning the method of manufacture, end uses, and wholesale or retail value of the domestic articles produced and the United States tariff provision under which the imported articles are classified.

(d) *Number of copies.* One (1) signed original and two (2) clear copies of the petition shall be filed. The name(s) of the person(s) signing the petition shall be typewritten or otherwise clearly reproduced.

(Approved by the Office of Management and Budget under control number 1205-0192)

[42 FR 32772, June 28, 1977, as amended at 49 FR 18295, Apr. 30, 1984; 52 FR 23401, June 19, 1987; 72 FR 37103, 37104, July 9, 2007]

§ 90.12 Investigation.

Upon receipt of a petition, properly filed and verified, the Director of the Division of Trade Adjustment Assistance shall promptly publish notice in the FEDERAL REGISTER that the petition has been received. The Director shall initiate, or order to be initiated, such investigation as he determines to be necessary and appropriate. The investigation may include one or more field visits to confirm information furnished by the petitioner(s) and to elicit other relevant information. In the course of any investigation, representatives of the Department shall be authorized to contact and meet with responsible officials of firms, union officials, employees, and any other persons, or organizations, both private and public, as may be necessary to marshal all relevant facts to make a determination on the petition.

(Approved by the Office of Management and Budget under control numbers 1205-0197, 1205-0190, 1205-0191)

[52 FR 23401, June 19, 1987, as amended at 72 FR 37104, July 9, 2007]

§ 90.13 Public hearings.

(a) *When held.* A public hearing shall be held in connection with an investigation instituted under § 90.12 whenever, not later than ten (10) days after the date of publication in the FEDERAL REGISTER of the notice of receipt of the petition, such a hearing is requested in writing by:

(1) The petitioner; or

(2) Any other person found by the Director to have a substantial interest in the proceedings. Such petitioner and other interested persons shall be afforded an opportunity to be present, to produce evidence, and to be heard.

(b) *Form of request.* A request for public hearing shall be filed in the same manner as provided for filing of petitions and other documents under § 90.31(a). A request by a person other than the petitioner shall contain:

(1) The name, address, and telephone number of the person, organization, or group requesting the hearing; and

(2) A complete statement of the relationship of the person, organization, or group requesting the hearing to the petitioner or the subject matter of the